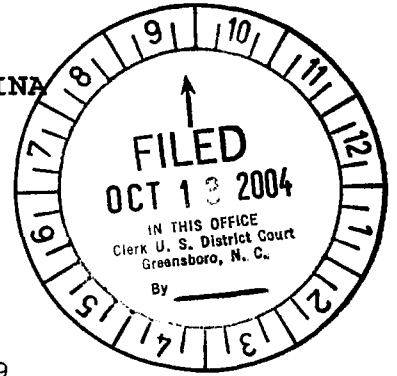


495.

D/LS

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA



CROWN CORK & SEAL COMPANY, INC.
and CLARK EQUIPMENT COMPANY,

Plaintiffs,

v.

CBS CORPORATION, et al.,

Defendants.

CBS CORPORATION, et al.,

Third-Party Plaintiffs,

v.

INGERSOLL-RAND COMPANY, et al.,

Third-Party Defendants.

1:99CV00869

RECOMMENDATION NO. 25 OF MAGISTRATE JUDGE ELIASON

Plaintiffs have filed a motion to dismiss and bar all further claims, cross-claims and third-party claims against settling defendant CBS Corporation ("CBS"). (Docket No. 437) No party has filed an opposition. The basis for this motion is the same as was dealt with in Recommendation No. 3. This Recommendation was adopted by the Court and judgment was entered on January 9, 2001. (Docket Nos. 219 & 220) For the same reasons as were set out in Recommendation No. 3, it is recommended that plaintiffs' motion to dismiss as to this defendant should be granted.

IT IS THEREFORE RECOMMENDED that plaintiffs' motion to dismiss defendant CBS Corporation as a defendant from this lawsuit with prejudice, and further, that all cross-claims or third-party claims arising out of plaintiffs' claims for recovery of their RI/FS

costs, RD/RA costs, or any other response costs against CBS Corporation (docket no. 437) be granted, and that the Court, in fact, dismiss any cross-claim or third-party claim by any party against defendant CBS Corporation with prejudice as a result of its settlement of plaintiffs' claims, and further, that the Court accept the Uniform Comparative Fault Act proportionate share rule for this case so that plaintiffs' contribution claims against the non-settling defendants will be reduced by the fair share of CBS Corporation and further, that a final, appealable judgment be entered concerning the dismissal of CBS Corporation from this action, inasmuch as there is no just reason to delay the entry of a final, appealable judgment.


United States Magistrate Judge

October 13, 2004